



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

October 3, 2012

Ms. Rebecca Hoff
NOAA Damage Assessment and
Restoration Center NW
7600 Sand Point Way NE, Building 1
Seattle, Washington 98155

Re: US Environmental Protection Agency review of the Supplemental Draft Environmental Impact Statement (SDEIS) for the Lower Duwamish River Natural Resource Damage Assessment (NRDA) Programmatic Plan. EPA Project number 07-023-NOA.

Dear Ms. Hoff:

The EPA has reviewed the SDEIS for the Lower Duwamish River (LDR) NRDA Programmatic Restoration Plan in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309, independent of NEPA, specifically directs the EPA to review and comment in writing on the environmental impacts associated with all major federal actions. Under our policies and procedures we evaluate the document's adequacy in meeting NEPA requirements.

NOAA released a draft programmatic EIS for the LDR/NRDA in 2009. The purpose of the EIS was to provide guidance to the Lower Duwamish River Natural Resource Trustees (Trustees) in their decision to implement restoration of natural resources that have been impacted by hazardous substance releases. The Trustees include NOAA, US Fish and Wildlife Service, the Bureau of Indian Affairs, Washington State Departments of Ecology, Fish and Wildlife Service, and Natural Resources, the Muckleshoot Indian Tribe, and the Suquamish Indian Tribe. The supplement to the draft EIS was developed in response to comments requesting additional information on defining injury and habitat values. In response, the SDEIS includes additional information regarding the injury assessment and restoration valuation methodology processes that will guide potential responsible parties in developing site specific restoration proposals in the LDR.

We appreciate the continued coordination with the EPA staff involved in NEPA review and clean-up activities through our Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority. We believe the SDEIS thoroughly describes the NRDA process, the potential types of restoration, and provides valuable linkages to other local restoration plans and CERCLA efforts. We continue to support the restoration of the LDR, which has undergone widespread contamination from numerous potentially responsible parties. We agree with the Trustees' ecosystem approach for planning and with the preferred alternative, which promotes integrated restoration in order to provide habitat that would support a suite of species. This approach should have greater ecological value compared to focusing on one or a small group of species. We have assigned a rating of Lack of

Objection (LO) to the draft EIS. This rating and a summary of our comments will be published in the Federal Register.

While we support the proposal, we continue to suggest that additional environmental conditions be considered in the analysis to support restoration decisions. In the EPA's comment letter on the 2009 draft EIS, we recommended including additional information on current water quality contamination levels. We appreciate the additional information and appendices in the SDEIS. In particular, Appendix C provided details on the estimated concentrations of substances of concern (e.g., metals, chlorinated organic compounds, polycyclic aromatic hydrocarbon) from bioassays and estimates percent injury based on Washington State's Sediment Management Standards and Apparent Effects Threshold. This supporting information provides useful context to better understand sediment quality in the LDR. Although this improves the level of detail in the document, we continue to recommend that water quality and stream bank stability also be considered for restoration proposals. We understand that sediment quality may be vital for species productivity; however, other conditions such as water chemistry may be equally important for species and habitat function. We also recognize that this level of detail will likely be provided as restoration proposals are submitted to NOAA and Environmental Assessments tied to this SDEIS are developed. We look forward to continuing to coordinate as these Environmental Assessments are developed and released for review.

Thank you for the opportunity to comment on this SDEIS. If you would like to discuss our comments further, please contact me at (206) 553-1601 or by email at reichgott.christine@epa.gov, or you may contact Lynne McWhorter of my staff at (206) 553-0205 or by email at mcwhorter.lynne@epa.gov.

Sincerely,



Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit



**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment, February, 1987.